

# **FIFTY-FIFTH DAY**

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**FRIDAY, APRIL 18, 1997**

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## **PROCEEDINGS**

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna, Madla.

The President announced that a quorum of the Senate was present.

The Reverend William B. Miller, Rector, Saint James Episcopal Church, Austin, offered the invocation as follows:

Gracious God, we are blessed to enjoy the gift of life and the privilege of living in this State of Texas, our home. And we give You thanks for its diversity, vitality, and passion. We pray Your blessing and Your guidance for those who live here and those who lead us. Grant to each a full measure of gratitude, compassion, and perseverance. Impart to us a reverence for the Earth as Your creation, a respect for the dignity of every human being, and a recognition of our responsibilities to You and to one another. Give us wisdom in decision making, civility in discourse, conviction where there is injustice, graciousness in disagreement, and a sense of humor in all things; that through our struggle we may realize a vision of true community, accomplish Your purposes in this place, and so find with one another fulfillment in our common humanity. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## **LEAVES OF ABSENCE**

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Madla was granted leave of absence for today on account of important business.

**CO-AUTHOR OF SENATE BILL 1185**

On motion of Senator Ellis and by unanimous consent, Senator West will be shown as Co-author of **SB 1185**.

**CO-AUTHOR OF SENATE BILL 1363**

On motion of Senator Barrientos and by unanimous consent, Senator Brown will be shown as Co-author of **SB 1363**.

**CO-AUTHOR OF SENATE BILL 1365**

On motion of Senator Barrientos and by unanimous consent, Senator Brown will be shown as Co-author of **SB 1365**.

**CO-AUTHOR OF SENATE BILL 1437**

On motion of Senator Wentworth and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 1437**.

**CO-AUTHOR OF SENATE BILL 1495**

On motion of Senator Bivins and by unanimous consent, Senator Truan will be shown as Co-author of **SB 1495**.

**CO-AUTHOR OF SENATE BILL 1534**

On motion of Senator Barrientos and by unanimous consent, Senator Truan will be shown as Co-author of **SB 1534**.

**CO-AUTHOR OF SENATE BILL 1694**

On motion of Senator Shapiro and by unanimous consent, Senator Patterson will be shown as Co-author of **SB 1694**.

**CO-AUTHOR OF SENATE BILL 1698**

On motion of Senator Shapiro and by unanimous consent, Senator Patterson will be shown as Co-author of **SB 1698**.

**CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 19**

On motion of Senator Truan and by unanimous consent, Senator Ellis will be shown as Co-author of **SCR 19**.

**CO-AUTHOR OF SENATE RESOLUTION 534**

On motion of Senator Lucio and by unanimous consent, Senator Truan will be shown as Co-author of **SR 534**.

**CAPITOL PHYSICIAN**

The "Doctor for the Day," Dr. Jose Ugarte of Kingsville, accompanied by his wife Lina, his daughters Shannon and Cheyenna, and his son Phillip, was introduced to the Senate by Senator Truan.

The Senate expressed appreciation and gratitude to Dr. Ugarte for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**INTRODUCTION OF  
BILLS AND RESOLUTIONS POSTPONED**

Senator Truan was recognized and announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

**SENATE RESOLUTION 495**

Senator Sibley offered the following resolution:

WHEREAS, The Senate of Texas takes pleasure in recognizing the Texas Federation of Women's Clubs on the auspicious occasion of its 100th anniversary on May 1, 1997; the federation is a member of the General Federation of Women's Clubs; and

WHEREAS, Founded in Waco in 1897, the Texas Federation of Women's Clubs has as its purpose to unite women's clubs and similar organizations throughout Texas to promote activities in the areas of education, conservation, public affairs, the arts, and Texas heritage; and

WHEREAS, The Texas Federation of Women's Clubs organized 85 percent of all the libraries in Texas, supported a pure foods bill, and sponsored mental health programs; and

WHEREAS, The clubs are some of the world's oldest and largest women's volunteer organizations, and the members of these clubs include college students, retirees, teachers, homemakers, business owners, and corporate executives; and

WHEREAS, The General Federation of Women's Clubs has about 6,500 clubs in large and small communities throughout the country and over one million members worldwide; and

WHEREAS, This outstanding group has amassed an impressive array of achievements; they established the national model for juvenile courts, supported legislation for the eight-hour working day, and encouraged the first child labor law; and

WHEREAS, In addition, the General Federation of Women's Clubs supported equal pay for equal work, began an educational program on substance abuse for women and children, and founded the Women's History and Resource Center; and

WHEREAS, The Texas Federation of Women's Clubs has sponsored scholarships, aided conservation groups, and helped organize other groups such as the Texas Garden Clubs and Home Demonstration Clubs; truly a group which has made such contributions is deserving of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby congratulate the Texas Federation of Women's Clubs on the celebration of the 100th anniversary of its founding; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the group as an expression of the highest regard and esteem of the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sibley and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

**GUESTS PRESENTED**

Senator Sibley was recognized and introduced to the Senate a delegation from the Texas Federation of Women's Clubs.

The Senate welcomed its guests.

(Senator Truan in Chair)

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, April 18, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HB 209**, Relating to monthly benefits for surviving spouses of deceased members of the Teacher Retirement System of Texas.

**HB 327**, Relating to creation of an offense for parking a commercial motor vehicle overnight in certain residential subdivisions.

**HB 473**, Relating to the licensing of waste haulers by certain counties.

**HB 494**, Relating to false claims made with certain governmental entities.

**HB 564**, Relating to certain hearings and investigations conducted by the Texas Workforce Commission.

**HB 598**, Relating to reimbursement of certain administrative costs incurred by an employer in implementing a garnishment order.

**HB 621**, Relating to the establishment of the Texas Chiropractic College as a public institution of higher education.

**HB 723**, Relating to informed consent before the performance of a hysterectomy.

**HB 785**, Relating to venue in a suit against a political subdivision.

**HB 883**, Relating to the composition of the board of directors of certain metropolitan transit authorities.

**HB 1168**, Relating to the Texas Manufacturing Institute.

**HB 1193**, Relating to free trial transcripts for appeals in which an affidavit of inability to pay costs has been filed.

**HB 1228**, Relating to consolidated permit processing by the Texas Natural Resource Conservation Commission.

**HB 1285**, Relating to the meetings of a condominium board or association.

**HB 1410**, Relating to authorizing economic development corporations to provide affordable housing.

**HB 1489**, Relating to the regulation of certain animals.

**HB 1550**, Relating to the juvenile justice system.

**HB 1747**, Relating to procedures to deal with an individual who is in the criminal justice system and who has a mental illness or is a person with mental retardation.

**HB 1761**, Relating to a prohibition on certain requirements imposed by temporary employment services.

**HB 1820**, Relating to the tuition charged to certain foreign students with financial need at certain components of the Texas State Technical College System and at Texas A&M University—Corpus Christi.

**HB 1843**, Relating to funeral merchandise and services and other funeral benefits.

**HB 1870**, Relating to the regulation of trust companies; providing administrative and criminal penalties.

**HB 1975**, Relating to the examination of certain insurance companies.

**HB 1976**, Relating to financial solvency requirements for certain property and casualty insurers.

**HB 2015**, Relating to the redesignation of certain articles of the Insurance Code.

**HB 2102**, Relating to the closing of juvenile court hearings to the public.

**HB 2116**, Relating to the ad valorem taxation of certain inventories.

**HB 2437**, Relating to the Texas Property and Casualty Insurance Guaranty Association.

**HB 2644**, Relating to systems and programs administered by the Teacher Retirement System of Texas.

**HB 2649**, Relating to the maximum ad valorem tax rate for certain rural fire prevention districts.

**HB 2692**, Relating to the method of bidding for certain contracts related to community development programs.

**HB 2812**, Relating to the inclusion of performance pay for purposes of contributions and benefits under the Teacher Retirement System of Texas.

**HCR 24**, Encouraging Texas colleges and universities to include antiviolence education in their curriculum.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 680** (viva voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

(President in Chair)

**SENATE RESOLUTION 534**

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing Morris Atlas, who was recently selected as the recipient of the 1997 Most Outstanding Alumnus Award by The University of Texas Law Alumni Association; and

WHEREAS, Each year, the Alumnus Award is bestowed upon a graduate who has contributed significantly to his or her profession and to society as a whole; and

WHEREAS, Morris Atlas was born in Houston, graduated from The University of Texas School of Law in 1950, and started his own law firm in McAllen in 1953; and

WHEREAS, He is a senior and managing partner of Atlas and Hall, a well-known firm engaged in general civil practice, representing banks, insurance companies, agricultural and commercial enterprises, and individuals throughout South Texas; and

WHEREAS, One of our state's outstanding citizens and a well-known civic leader, Morris Atlas is a member of a host of professional and civic organizations and business and nonbusiness directorships, trusteeships, and associations; and

WHEREAS, He is a Life Fellow of the Texas Bar Foundation, a Fellow of the American College of Trial Lawyers, and a member of the Texas-Mexico Bar Association; he is a member of the board of directors for Texas State Bank and Texas Regional Bancshares, Incorporated; and

WHEREAS, A man of extensive expertise, he is a member of the Development Board for The University of Texas at Austin, a trustee for The University of Texas Law School Foundation, and a member of the Board of Visitors for Scott and White Memorial Hospital; his civic activities include serving as a member of the Gulf Coast Advisory Council on Water Resources and as chairman of the fund drive for the McAllen International Museum; he has served as the director of the McAllen Chamber of Commerce and the Rio Grande Valley Chamber of Commerce; and

WHEREAS, Mr. Atlas served as Special Counsel to the Texas Senate on Tort Reform in 1987 and on Worker's Compensation in 1989; he has also served as a member of Senator Phil Gramm's Federal Judiciary Evaluation Committee; and

WHEREAS, In tribute to his exceptional work, Mr. Atlas was honored with The University of Texas School of Law Faculty Service Award

in 1988 for his service to the school and to legal education; he was named Border Texan of the Year in 1991 by the Hidalgo Chamber of Commerce and was honored with a Tree of Life Award by the Jewish National Fund for humanitarian service in 1994; and

WHEREAS, A mentor, friend, and source of strength to many Texans, Morris Atlas has distinguished himself in his profession and has contributed in countless ways to the betterment of his community and state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend Morris Atlas on his exceptional accomplishments and extend congratulations to him on earning the 1997 Most Outstanding Alumnus Award; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

LUCIO  
TRUAN

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Lucio and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

#### GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Morris Atlas and his wife Rita.

The Senate welcomed Mr. and Mrs. Morris Atlas.

(Senator Truan in Chair)

(President in Chair)

#### REMARKS ORDERED PRINTED

On motion of Senator Truan and by unanimous consent, the following remarks on **SR 534** were ordered reduced to writing and printed in the *Senate Journal*.

**Senator Lucio:** Thank you very much, Mr. President. Members, it gives me great pleasure to introduce an outstanding individual to you this morning. Most of us know this great Texan. Today we want to honor this person for an achievement that he has earned through his dedication and contributions to the legal profession. This fine individual, ladies and gentleman, is Mr. Morris Atlas of McAllen, Texas, the Rio Grande Valley. He attended Texas A&M University for a short while and then he entered the Navy in 1944 at the ripe age of 17. Mr. Atlas was discharged in 1946 after the war. Some of us were born in that year and I was one of those. He immediately enrolled in The University of Texas at Austin

and received his Bachelor of Business Administration degree in 1949. He then enrolled in law school at The University of Texas School of Law and graduated in 1950 and started his own law firm in McAllen—a city in my Senatorial District that I'm very, very proud of—in 1953. Today, Mr. Atlas is a senior and managing partner of Atlas and Hall, a well-known firm engaged in general civil practice. He is known for many things that he has done, both as a professional and, of course, in his contributions to civic organizations throughout the state. He is a Life Fellow of the Texas Bar Foundation, a Fellow of the American College of Trial Lawyers, and a member of the Texas-Mexico Bar Association. I am very pleased, also, today, to say that he served as special counsel to the Texas Senate, on tort reform in 1987 and workers' compensation in 1989. Today, I ask you, ladies and gentlemen and the Members of the Senate, to join me in honoring Mr. Atlas for all of these accomplishments and many more, but especially for being recently selected as the recipient of the 1997 Most Outstanding Alumnus Award by The University of Texas Law Alumni Association. His beautiful wife, Rita, is with him here today. Mr. President, it really gives me a great thrill, to tell you the truth, to move for adoption of this resolution because we have with us an outstanding individual that has served us so well through the years.

**Senator Truan:** Mr. President, Members, I want to join with Senator Lucio in supporting this resolution and, at the appropriate time, to request that all Members' names, including that of yourself as President of the Senate, be added to this resolution. Members of the Senate, I also am aware of the contributions of this outstanding Texan. There is nothing that happens in our part of the state, for sure, without Morris Atlas and his wife being involved. They have made a significant contribution to the State of Texas and to his profession, to his legal profession. I am very honored to join Senator Lucio in asking approval of this resolution, Mr. President, Members.

**Senator Duncan:** Thank you, Mr. President. Members, I have had the pleasure and privilege and honor to work with Morris Atlas in many of the negotiations that were referred to in the resolution. There are not enough pages in a resolution to be able to explain exactly what Morris Atlas brought to this Legislature in 1987 and 1989 and even in 1991 and 1995. Every time we do one of these issues, he's involved. He volunteers his time to come down here and advise Members of the Legislature. He brings to those negotiations, and brought to them, the integrity of someone who was objective, someone who understood the issues and problems. He has been the type of person that, I think, whenever involved in negotiations, you always wish you had one just like him. And, so, I appreciate you, Morris, and we appreciate all that you've done for the State of Texas.

**Senator Ellis:** Mr. President, just very briefly, I don't know Mr. Atlas personally, but I did have the pleasure of interacting with him as far back as 1972 when I went to his part, your part, of the state campaigning for Bill Hobby when he was running for Lieutenant Governor. I was much



younger and my hair was growing then, Mr. Atlas. I do know your son and your daughter-in-law very well and they are certainly very active in politics and were very helpful to me when I first ran for the city council many years ago. I've known your daughter-in-law, Judge Atlas, very well over the years. I just want to commend the Senator for offering this fine resolution. I'm so grateful for what you've done for our state, including my part of the state.

**Senator Whitmire:** Mr. President, Members, Senator Ellis and I had the pleasure of working with Scott and Nancy in the Houston area. I was just going to point out how, certainly, any of us that have worked down here in recent years worked with Mr. and Mrs. Atlas. Morris is always present when we get in a tough situation whether it be tort reform or judicial selection, but I think it's so significant that your impact will be felt on this state for many, many years to come through your fine upbringing of Scott. Nancy is a federal judge, and Scott, being a corporate lawyer with Vince and Elkins, contributes his time and energy to doing pro bono work and has actually been very successful in representing individuals on death row that could not receive any other representation but for Scott and his hard work. I think it's a great demonstration of your contribution to the state, not only what you're doing in your lifetime, but what you're going to leave as your legacy through your children, your in-laws (with Nancy being your daughter-in-law), and your fine grandchildren that are getting brought up in the City of Houston. I just think it's a real neat tribute. Your influence goes so much further than beyond just the hands and the people that you've touched, but what you've done and contributed in bringing a fine family to the State of Texas.

**Lieutenant Governor Bullock:** I've known Morris Atlas and Rita for over 35 years and he represents just about everything that's good and great about our state because he's been a part of it. Whether it be in his community of the Rio Grande Valley, or whether it be a tireless worker in higher education, or whether it be an exemplary example of the integrity of the legal profession in our state, it's Morris Atlas. Morris, Rita, we love you. Texas thanks you two great Texans.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1102 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1102**, Relating to systems and programs administered by the Employees Retirement System of Texas.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1102 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1102** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**CSSB 1102** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1124 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1124**, Relating to the regulation of aquaculture.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1124 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1124** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**CSSB 1124** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1137 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1137**, Relating to the authority of certain municipal utility districts to select the municipality in whose extraterritorial jurisdiction the district is located and to validating and confirming certain acts of municipal utility districts.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1137** by adding the following appropriately numbered sections to the bill:

SECTION \_\_. (a) The legislature finds that the boundaries of the Dallas County Water Control and Improvement District No. 6 (the "district") are coterminous with the boundaries of Certificate of Convenience and Necessity No. 10061, issued under Section 13.246, Water Code, and outlined on the official maps of the Texas Natural Resource Conservation Commission. The metes and bounds description provided by the district under Subsection (b) of

this section constitute the legal metes and bounds description of the district's territory.

(b) The district's board of directors shall provide to the executive director of the Texas Natural Resource Conservation Commission a metes and bounds description of the boundaries established in Subsection (a) of this section not later than the 60th day after the effective date of this section. The metes and bounds description provided by the district must be consistent with the boundaries of Certificate of Convenience and Necessity No. 10061.

(c) An exclusion of land under this section does not affect, diminish, or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of the district or the obligation of the board annually to adjust the district's rates to provide sufficient revenues for debt service.

(d) Any land excluded under this section is not released from the payment of its pro-rata share of the district's indebtedness.

(e) The district shall continue to provide the same level of service to any existing customers that might have been excluded as a result of this section and at rates equivalent to rates charged to customers within its boundaries.

(f) Within 30 days after completion of the metes and bounds description required by Subsection (b) of this section, the district shall provide a copy of the metes and bounds with a map of the district to mayors of the City of Dallas, the City of Mesquite, and the City of Balch Springs.

SECTION \_\_. Chapter 535, Acts of the 72nd Legislature, Regular Session, 1991, is repealed.

SECTION \_\_. The sections of this Act relating to the Dallas County Water Control and Improvement District No. 6 take effect immediately.

The amendment was read and was adopted by a viva voce vote.

CSSB 1137 as amended was passed to engrossment by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1137 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 1137 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

CSSB 1137 was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

#### **BILLS SIGNED**

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

**SB 69, SB 855, SB 977**

(Senator Shapiro in Chair)

**SENATE BILL 1316 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1316**, Relating to fees of office and expenses of water district directors.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 1316 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1316** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**SB 1316** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE**

**SENATE BILL 1781 ON SECOND READING**

Senator Ellis asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**CSSB 1781**, Relating to delinquency charges in retail charge agreements.

There was objection.

Senator Ellis then moved to suspend the regular order of business and take up **CSSB 1781** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Haywood, Lindsay, Lucio, Moncrief, Nixon, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, Zaffirini.

Nays: Fraser, Galloway, Harris, Nelson, Ogden, Shapleigh, West, Whitmire.

Absent-excused: Luna, Madla.

**CSSB 1781** was read second time.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1781**, in SECTION 1 of the bill, in amended Subsection (c), Section (6), Article 6.03, Title 79, Revised Statutes (Article 5069-6.03,

Vernon's Texas Civil Statutes) (senate committee report, page 1, line 28), after the last sentence, by inserting:

The creditor shall remit 50 cents from each delinquency charge collected under this Section to the comptroller, in the time and manner established by the comptroller, for deposit to the credit of an account in the general revenue fund. One-half of the money deposited in the account may be used only to finance research conducted by the Finance Commission of Texas under Section 1.011(f), Texas Banking Act (Article 342-1.011, Vernon's Texas Civil Statutes). The other one-half of the money deposited in the account may be used only to finance educational activities and counseling services under Articles 2.02A and 9.01, Title 79, Revised Statutes (Articles 5069-2.02A and 5069-9.01, Vernon's Texas Civil Statutes).

The amendment was read and was adopted by a viva voce vote.

**CSSB 1781** as amended was passed to engrossment by the following vote: Yeas 16, Nays 12.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Lindsay, Moncrief, Nixon, Patterson, Ratliff, Sibley, Zaffirini.

Nays: Fraser, Galloway, Harris, Haywood, Lucio, Nelson, Ogden, Shapiro, Shapleigh, Truan, West, Whitmire.

Absent: Wentworth.

Absent-excused: Luna, Madla.

#### **SENATE BILL 1487 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1487**, Relating to the repeal of the in-state need lease restriction on the sale of casinghead gas or natural gas out of the state.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **RECORD OF VOTE**

Senator Moncrief asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

#### **SENATE BILL 1487 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1487** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0, Present-not voting 1.

Present-not voting: Moncrief.

Absent-excused: Luna, Madla.

**SB 1487** was read third time and was passed by a viva voce vote.

#### RECORD OF VOTE

Senator Moncrief asked to be recorded as "Present-not voting" on the final passage of the bill.

#### COMMITTEE SUBSTITUTE SENATE BILL 805 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 805**, Relating to the regulation of the practice of plumbing; providing penalties.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

##### Floor Amendment No. 1

Amend **CSSB 805** as follows:

After "building owned" in Section 3(a) of SECTION 2 of the bill (committee printing page 1, line 59) strike "and [or]" and substitute "or".

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

##### Floor Amendment No. 2

Amend **CSSB 805**, SECTION 2, Subsection (b) to read as follows:

(b) Plumbing work done on a single family residential property not connected to a public water system and located outside the municipal limits of any organized city, town or village in this state, or within any such city, town or village of less than one thousand (1,000) inhabitants, unless required by ordinance in such city, town or village of less than one thousand (1,000) inhabitants; (committee printing, beginning on page 1, line 60)

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

##### Floor Amendment No. 3

Amend **CSSB 805**, SECTION 2, subsection (c) by inserting the following after "the general public;" and before "maintenance work": "construction, installation and" (committee printing, page 2, line 7)

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSSB 805**, SECTION 2, by adding a new Subsection (f) to Section 3, The Plumbing License Law, to read as follows:

(f) Water well drilling work done by a well driller who is licensed under Chapter 32, Water Code.

The amendment was read and was adopted by a viva voce vote.

**CSSB 805** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 805 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 805** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**CSSB 805** was read third time and was passed by a viva voce vote.

**VOTES RECONSIDERED**

On motion of Senator Wentworth and by unanimous consent, the vote by which **CSSB 1137** was finally passed was reconsidered.

**CSSB 1137**, Relating to the authority of certain municipal utility districts to select the municipality in whose extraterritorial jurisdiction the district is located and to validating and confirming certain acts of municipal utility districts.

Question—Shall the bill be finally passed?

On motion of Senator Wentworth and by unanimous consent, the vote by which the Constitutional Three-day Rule on **CSSB 1137** was suspended was reconsidered.

Question—Shall the Constitutional Three-day Rule be suspended?

On motion of Senator Wentworth and by unanimous consent, the vote by which **CSSB 1137** was passed to engrossment was reconsidered.

Question—Shall the bill be passed to engrossment?

On motion of Senator Wentworth and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question—Shall Floor Amendment No. 1 be adopted?

On motion of Senator Cain and by unanimous consent, Floor Amendment No. 1 was withdrawn.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend SECTION 1 of **CSSB 1137** by adding Subsection (e) to read as follows:

(e) This section does not apply to districts located in the extraterritorial jurisdiction of a municipality with territory in three or more counties, and no option of selection granted under this section or validation by this act shall apply to municipalities so located.

The amendment was read and was adopted by a viva voce vote.

**CSSB 1137** as amended was again passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1137 ON THIRD READING**

Senator Wentworth again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1137** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**CSSB 1137** was again read third time and was finally passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1558 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1558**, Relating to adding land to a defined area within a water control and improvement district by petition of landowner.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1558** by adding the following appropriately numbered sections to the bill:

**SECTION \_.** (a) The legislature finds that the boundaries of the Dallas County Water Control and Improvement District No. 6 (the "district") are coterminous with the boundaries of Certificate of Convenience and Necessity No. 10061, issued under Section 13.246, Water Code, and outlined on the official maps of the Texas Natural Resource Conservation Commission. The metes and bounds description provided by the district under Subsection (b) of this section constitute the legal metes and bounds description of the district's territory.

(b) The district's board of directors shall provide to the executive director of the Texas Natural Resource Conservation Commission a metes and bounds description of the boundaries established in Subsection (a) of this section not later than the 60th day after the effective date of this section. The metes and bounds description provided by the district must be consistent with the boundaries of Certificate of Convenience and Necessity No. 10061.



(c) An exclusion of land under this section does not affect, diminish, or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of the district or the obligation of the board annually to adjust the district's rates to provide sufficient revenues for debt service.

(d) Any land excluded under this section is not released from the payment of its pro-rata share of the district's indebtedness.

(e) The district shall continue to provide the same level of service to any existing customers that might have been excluded as a result of this section and at rates equivalent to rates charged to customers within its boundaries.

(f) Within 30 days after completion of the metes and bounds description required by Subsection (b) of this section, the district shall provide a copy of the metes and bounds with a map of the district to mayors of the City of Dallas, the City of Mesquite, and the City of Balch Springs.

SECTION \_\_. Chapter 535, Acts of the 72nd Legislature, Regular Session, 1991, is repealed.

SECTION \_\_. The sections of this Act relating to the Dallas County Water Control and Improvement District No. 6 take effect immediately.

The amendment was read and was adopted by a viva voce vote.

CSSB 1558 as amended was passed to engrossment by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1558 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 1558 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

CSSB 1558 was read third time and was passed by a viva voce vote.

(Senator Whitmire in Chair)

**SENATE BILL 1055 ON SECOND READING**

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1055**, Relating to the oversight and operations of regional planning commissions and councils of governments.

The bill was read second time.

Senator Haywood offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1055** as follows:

On page 2, line 20, between "at" and "eight", strike "lease" and insert "least".

The committee amendment was read and was adopted by a viva voce vote.

**SB 1055** as amended was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Moncrief asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**SENATE BILL 1055 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1055** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**SB 1055** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Moncrief asked to be recorded as voting "Nay" on the final passage of the bill.

**SENATE BILL 1809 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1809**, Relating to the administration, powers, duties, operation, and financing of Wells Branch Municipal Utility District in Travis and Williamson Counties.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 1809 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1809** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**SB 1809** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 239 ON SECOND READING**

Senator West asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**CSSB 239**, Relating to judicial review of certain decisions about public assistance benefits administered by the Texas Department of Human Services.

There was objection.

Senator West then moved to suspend the regular order of business and take up **CSSB 239** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Luna, Madla.

**CSSB 239** was read second time and was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 239 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 239** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Luna, Madla.

**CSSB 239** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the final passage of the bill.

**SENATE BILL 1385 ON SECOND READING**

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1385**, Relating to the use of videoconferencing technology by the office of the attorney general.

The bill was read second time.

Senator Haywood offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1385** in SECTION 1 of the bill, on page 1, line 19, by adding the following subsection:

(c) The attorney general shall obtain the approval of the appropriate authority overseeing a proceeding under Subsection (a)(2) before using videoconferencing technology under this section.

The committee amendment was read and was adopted by a viva voce vote.

**SB 1385** as amended was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**SENATE BILL 1385 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1385** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Harris.

Absent-excused: Luna, Madla.

**SB 1385** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the final passage of the bill.

**MESSAGE FROM THE HOUSE**

**HOUSE CHAMBER**

Austin, Texas

Friday, April 18, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 178**, In memory of Ryan Freeman.

**HCR 179**, Commending the Natural Resources Foundation of Texas.

**HCR 180**, Designating the first week of April 1997 as Texas Natural Resources Week.

**SCR 59**, Recognizing March 26, 1997, as Texas Women Veterans Day.

**SCR 61**, Declaring April 2, 1997, as Texas Higher Education Day.

**SCR 62**, Designating April 1, 1997, as Lubbock Day at the State Capitol.

**SCR 64**, Commending Texas Congress of Parents and Teachers on the occasion of its 88th anniversary celebration.

**SCR 65**, Encouraging all Texans to observe Former Prisoners of War Recognition Day on April 9, 1997.

**SCR 70**, Honoring The Bartley-Woods School in Fannin County.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**COMMITTEE SUBSTITUTE  
SENATE BILL 436 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 436**, Relating to the preservation and restoration of certain public documents filed with a county clerk.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 436** by striking page 1 lines 45 through 50 subsection (d) and replace with the following:

(d) The county clerk shall prepare an annual written plan for the fund for automation projects and records management and preservation services performed by the clerk. After a public hearing, the plan shall be considered for approval by the commissioners court. Funds from the preservation and restoration account shall only be expended in compliance with the plan. All expenditures from the fund shall comply with the provisions of the County Purchasing Act, Chapter 262, Local Government Code.

Amend **CSSB 436** by striking page 2 lines 5 through 10, subsection (e)(2), replace with the following, and renumber the remaining subsections accordingly:

(f) The county clerk shall prepare an annual written plan for the fund for the preservation and restoration of the county clerk's records archive. After a public hearing, the plan shall be considered for approval by the commissioners court. Funds from the records archive account shall only be expended in compliance with the plan. All expenditures from the fund shall comply with the provisions of the County Purchasing Act, Chapter 262, Local Government Code.

The amendment was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend CSSB 436 as follows:

On page 1 line 56 insert the word clerk's between the words "county" and "records".

On page 1 line 64 insert the word clerk's between the words "county" and "records".

The amendment was read and was adopted by a viva voce vote.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend CSSB 436 as follows:

On page 2, line 17, add a new subsection (f) and reletter the subsequent subsections appropriately. The new subsection (f) shall read as follows:

(f) If a county charges a fee under this section, a notice shall be posted in the county clerk's office. The notice shall be posted in a conspicuous place and shall state the amount of the fee in the following form: "THE COUNTY CLERK AND COMMISSIONERS COURT OF \_\_\_\_\_ COUNTY HAS DETERMINED THAT IN ADDITION TO A RECORDS MANAGEMENT FEE OF \$\_\_\_\_\_, A RECORDS ARCHIVE FEE OF \$\_\_\_\_\_ IS NEEDED TO PRESERVE AND RESTORE COUNTY RECORDS."

The amendment was read and was adopted by a viva voce vote.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend CSSB 436 as follows:

On page 2, line 17, add a new subsection (g) and reletter the subsequent subsections appropriately. The new subsection (g) shall read as follows:

(g) The fee shall be subject to approval by the commissioners court in a public meeting.

The amendment was read and was adopted by a viva voce vote.

CSSB 436 as amended was passed to engrossment by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 436 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 436 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

CSSB 436 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1490 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1490**, Relating to training for local workforce development boards.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1490** by adding the following appropriately numbered section and renumbering existing sections appropriately:

SECTION \_\_. Section 302.043, Labor Code, is amended by adding Subsection (c) to read as follows:

(c) The division shall ensure that a local workforce development board receives training under Subsection (a) before the board begins to manage the delivery of child-care services.

The amendment was read and was adopted by a viva voce vote.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1490** by adding the following appropriately numbered section and renumbering existing sections appropriately:

SECTION \_\_. Section 44.061, Human Resources Code, is amended to read as follows:

Sec. 44.061. STATE ADVISORY COMMITTEE. (a) The State Advisory Committee on Child-Care Programs is appointed by the Texas Workforce Commission ~~[Board of Human Services]~~ on the recommendation of the executive director of the Texas Workforce Commission ~~[Commissioner of Human Services]~~.

(b) The committee shall consist of 20 members, not including ex officio members, who serve two-year terms.

(c) The Texas Workforce Commission ~~[Board of Human Services]~~ shall appoint the advisory committee to provide for balanced representation of:

- (1) parents, guardians, or custodians of children who use child-care programs;
- (2) child-care advocacy groups;
- (3) operators and providers of child-care programs and services representing rural and urban communities;
- (4) for profit and nonprofit providers of child-care services representing rural and urban communities;
- (5) experts in early childhood development and education;
- (6) experts in child health and nutrition;
- (7) other child-care professionals;

(8) the general public; and

(9) ex officio representatives from each state agency that has an interest or role in state child-care programs.

(d) The Texas Workforce Commission [~~Department of Human Services~~] shall provide to the committee staff support and other support necessary to operate the committee.

(e) A member of the committee is not entitled to compensation but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the board, as provided by the General Appropriations Act [Section 22.009 applies to the committee].

(f) The committee shall advise and assist [~~the Texas Department of Human Services and~~] the Texas Workforce Commission in developing coordinated state policies for the use of federal and state funds in child-care programs, including policies relating to the:

(1) review of any state plan required for the use of federal or state funds;

(2) development of a coordinated and comprehensive training program for child-care providers;

(3) establishment of guidelines providing technical assistance to child-care providers, including loans, grants, or training;

(4) development of a quality improvement program for federal and state funded child-care services;

(5) review of public access to current child-care services, with special emphasis placed on special needs populations and localities of the state with limited child-care programs;

(6) development of consumer education programs related to the access and selection of child-care services;

(7) review of appropriations to child-care programs;

(8) review of expenditures of child-care programs; and

(9) review of state efforts to maximize access to federal child-care funding.

(g) The committee shall review child-care policies and programs for compliance with applicable guidelines and shall advise the Texas Workforce Commission [~~Board of Human Services, the commission, and the Texas Department of Human Services~~] on the results of the review.

(h) The Texas Workforce Commission [~~Department of Human Services~~], with assistance from the committee, shall hold biennial public hearings on state and federal child-care programs to elicit public response and recommendations regarding the quality, accessibility, and affordability of child-care services. The hearings must be held in at least three separate geographical regions of the state and may be held in conjunction with other public hearings on child-care held by the Texas Workforce Commission [~~Department of Human Services~~].

(i) The committee shall annually report its findings and recommendations to the Texas Workforce Commission [~~Board of Human Services~~].

(j) The Texas Workforce Commission shall adopt rules to implement this section.

The amendment was read and was adopted by a viva voce vote.



**CSSB 1490** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1490 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1490** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**CSSB 1490** was read third time and was passed by a viva voce vote.

**SENATE BILL 1174 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1174**, Relating to the terms of court of the 90th Judicial District.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 1174 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1174** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**SB 1174** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1704 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1704**, Relating to prima facie speed limits for farm-to-market and ranch-to-market roads.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1704**, in SECTION 1 of the bill, amended Section 545.352(b), Transportation Code (committee printing page 1, lines 25-30) by striking subdivision (3) and substituting the following:

(3) 60 miles per hour in daytime and 55 miles per hour in nighttime if the vehicle is a passenger car or motorcycle on a highway that is;

(A) outside an urban district and not a highway numbered by this state or the United States; or

(B) a farm-to-market or ranch-to-market road that has a pavement width of 20 feet or less.

The amendment was read and was adopted by a viva voce vote.

CSSB 1704 as amended was passed to engrossment by a viva voce vote.

#### RECORD OF VOTE

Senator Bivins asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

(Senator Truan in Chair)

#### MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 1704 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 1704 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Truan, West, Whitmire, Zaffirini.

Nays: Bivins, Duncan, Fraser, Patterson, Sibley, Wentworth.

Absent: Nixon.

Absent-excused: Luna, Madla.

#### BILLS AND RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read: HCR 77, HB 680, HB 520

(President in Chair)

#### SENATE BILL 810 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 810**, Relating to the protection of certain unmarked burials and associated human remains or funerary objects and to the creation of certain offenses concerning unmarked burials; providing criminal penalties.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 810** as follows:

By adding a new subparagraph (D) to Section 42.13.(f)(1) to read as follows:

(D) the human remains or funerary objects were discovered inadvertently or accidentally in the course of exploration, production or transmission of energy and minerals.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **SB 810** as follows:

Section 2. Title 9, Natural Resources Code, is amended by amending Section 192.009 to read as follows:

Section 192.009. EXCEPTIONS ~~DEFENSES~~ TO PROSECUTION. It is an exception ~~a defense~~ to prosecution for an alleged violation of Section 192.004 that:

The amendment was read and was adopted by a viva voce vote.

**SB 810** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 810 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 810** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**SB 810** was read third time and was passed by a viva voce vote.

**SENATE BILL 631 ON SECOND READING**

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 631**, Relating to the compensation of retired state employees who return to work for, or contract with, the state.

The bill was read second time.

Senator Haywood offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 631** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter B, Chapter 659, Government Code, is amended by adding Section 659.0115 to read as follows:

Sec. 659.0115. SALARIES OF RETIRED AGENCY EMPLOYEES WHO RESUME EMPLOYMENT. (a) A state agency that reemploys a retired

agency employee to perform services substantially similar to the services the retiree performed for the agency during the last 12 months of service before retirement may not pay the retiree a salary at an annualized rate that exceeds the lesser of:

(1) the rate of compensation the retiree received from the state during the last 12 months of service before retirement; or

(2) \$60,000.

(b) The salary limitation provided by Subsection (a) does not apply to a retiree's first six months of reemployment after retirement, except that if a retiree is reemployed for more than six months after retirement, the limitation applies to the entire period of reemployment.

(c) In this section:

(1) "Retired agency employee" means a person:

(A) whose last state service before retirement was for the state agency by which the retiree is reemployed; and

(B) who is a retiree of:

(i) the employee class of membership of the Employees Retirement System of Texas; or

(ii) the Teacher Retirement System of Texas, the majority of whose service was credited in that system in a position with a state agency.

(2) "State agency" includes a "public senior college or university," as that term is defined by Section 61.003, Education Code.

SECTION 2. Chapter 2252, Government Code, is amended by adding Subchapter Z to read as follows:

#### SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

##### Sec. 2252.901. CONTRACTS WITH RETIRED AGENCY EMPLOYEES.

(a) A state agency that contracts with a retired agency employee to perform services substantially similar to the services the retiree performed for the agency during the last 12 months of service before retirement may not make payments under the contract at an annualized rate that exceeds the lesser of:

(1) the rate of compensation the retiree received from the state during the last 12 months of service before retirement; or

(2) \$60,000.

(b) The contract payment limitation provided by Subsection (a) does not apply during the first six months a retiree performs services under a contract after retirement, except that if a retiree performs services under the contract for more than six months, the limitation applies to the entire term of the contract.

(c) In this section:

(1) "Retired agency employee" means a person:

(A) whose last state service before retirement was for the state agency with which the retiree contracts to perform services; and

(B) who is a retiree of:

(i) the employee class of membership of the Employees Retirement System of Texas; or

(ii) the Teacher Retirement System of Texas, the majority of whose service was credited in that system in a position with a state agency.

(2) "State agency" includes a "public senior college or university," as that term is defined by Section 61.003, Education Code.

SECTION 3. (a) Section 659.0115, Government Code, as added by this Act, applies only to state service performed by a person who becomes a retiree on or after the effective date of this Act.

(b) Section 2252.901, Government Code, as added by this Act, applies only to a contract entered into by a person who becomes a retiree on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 1998.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

**SB 631** as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 631 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 631** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**SB 631** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

#### **SENATE BILL 1304 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1304**, Relating to funds tendered into the registry of the court.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **SB 1304** by inserting the following new SECTION 3 on line 9, page 2 of the bill and by renumbering each subsequent SECTION of the bill appropriately:

SECTION 3. Chapter 117, Local Government Code, is amended by adding Section 117.003 to read as follows:

Sec. 117.003. Compliance With Federal Tax Law for Funds Held Under This Chapter. (a) If any funds deposited under this chapter are placed into an interest bearing account, any person with a taxable interest in funds deposited to such account must submit appropriate tax forms and provide correct

information to the district or county clerk so that the interest earned on such funds can be timely and appropriately reported to the Internal Revenue Service. The information and forms provided to the district or county clerk under this section is not subject to public disclosure except to the extent necessary to effectuate compliance with federal tax law requirements.

(b) The district or county clerk is authorized to pay any or all of the interest earned on funds deposited under this chapter, without court order, to the Internal Revenue Service to satisfy tax withholding requirements.

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **SB 1304** by striking lines 19-20 on page 2 of the bill and substituting the following:

contract may, upon request by the clerk and approval of the commissioners court, include a provision that the funds in a special account earn interest. A request from the clerk that

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **SB 1304** by striking lines 17-21 on page 12 of the bill and substituting the following:

(a) Money may be paid from the registry fund only on checks or drafts signed by the district clerk on the written order of the court with proper jurisdiction, except that the clerk may make a payment without court order for unpaid court costs from a cash bond deposited in connection with an appeal after the appellate court issues its mandate in such appeal if the costs remain unpaid for 45 days after the mandate is issued.

The committee amendment was read and was adopted by a viva voce vote.

**SB 1304** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 1304 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1304** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Madla.

**SB 1304** was read third time and was passed by a viva voce vote.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.11 and Senate Rule 11.19 were suspended in order that the Committee on State Affairs might meet and consider the following bills today: **SB 602, SB 525**

**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Shapiro, on behalf of Senator Madla, submitted the following report from the Committee on Nominations:

**TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE:**

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be Members of the TEXAS GUARANTEED STUDENT LOAN CORPORATION BOARD OF DIRECTORS: Ruben E. Esquivel, Dallas County; Alfred Jackson, Harris County; Jorja L. Kimball, Kleberg County; Jane Phipps, Bexar County; William Bruce Robinson, Jr., Navarro County.

To be Members of the TEXAS BOARD OF HEALTH: Kent Morrison Adams, Jefferson County; Mario R. Anzaldúa, M.D., Hidalgo County; Walter D. Wilkerson, Jr., M.D., Montgomery County.

To be Members of the TEXAS WORKERS' COMPENSATION COMMISSION: Jack E. Abla, Smith County; Rebecca F. Olivares, Bexar County; Richard F. Reynolds, Travis County; Joel Burton "Burt" Terrill, Tom Green County.

To be Members of the STATE BOARD OF DENTAL EXAMINERS: Cornelius O. Henry, D.D.S., Smith County; James W. Kennedy, D.D.S., Harris County; H. Grant Lappin, Harris County; Michael D. Plunk, D.D.S., M.S.D., Dallas County; Marcia G. Waugh, El Paso County; Gail Wilks, Gregg County.

To be Members of the STATE EMPLOYEE CHARITABLE CAMPAIGN POLICY COMMITTEE: John Aarne Anderson, Smith County; Maria L. "Mary" Banda, Hidalgo County; Judy Burks, Wichita County.

To be a Member of the GENERAL SERVICES COMMISSION: Dionicio Vidal "Sonny" Flores, P.E., Harris County.

To be Members of the DEPARTMENT OF INFORMATION RESOURCES BOARD OF DIRECTORS: Walter A. "Trey" Bradley III, Denton County; Harry H. Richardson, Bexar County.

To be Members of the BOARD OF PILOT COMMISSIONERS FOR GALVESTON COUNTY PORTS: Harry Wayne Brown, Galveston County; Dorothy Anne Henderson, Galveston County; Janis Lowe, Galveston County; Edward S. Wilkinson, Sr., Ed.D., Galveston County.

To be Members of the BOARD OF PILOT COMMISSIONERS FOR THE SABINE BAR, PASS, AND TRIBUTARIES: George W. Gardner, Jefferson County; George O. Hudspeth, Jefferson County; Frederick L. Jackson, Hardin County; Jean M. Sheridan, Jefferson County; Roy Nelson Steinhagen, Jefferson County.

To be Members of the TEXAS REHABILITATION COMMISSION: Alvis Kent Waldrep, Jr., Collin County; Ray Allen Wilkerson, Travis County.

To be Members of the STATE BOARD OF EXAMINERS FOR SPEECH PATHOLOGY AND AUDIOLOGY: George E. Cire, Victoria County; Elsa Cardenas-Hagan, Cameron County; Harvey Komet, M.D., Bexar County.

To be a Member of the STATE SECURITIES BOARD: Jose Adan Trevino, Harris County.

To be Members of the TEXAS WORKERS' COMPENSATION INSURANCE FACILITY GOVERNING COMMITTEE: James Michael Lowery, Brazoria County; Emil E. Ogden, Brazos County; Gwyn Shea, Dallas County.

To be Members of the TEXAS WORKERS' COMPENSATION INSURANCE FUND BOARD OF DIRECTORS: Richard A. Cooper, Lubbock County; Brenda Pejovich, Dallas County; James D. Ross, C.P.A., Midland County; George Wesch, Jr., Bandera County; Charles Hugh Whiteside, Ph.D., Gregg County.

#### **NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Shapiro, on behalf of Senator Madla, gave notice that he would Monday, April 21, 1997, at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

#### **GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate a group of students and their teachers from Elolf Elementary School in Converse.

The Senate welcomed its guests.

#### **MOTION TO ADJOURN**

On motion of Senator Truan and by unanimous consent, the Senate at 12:00 noon agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 10:00 a.m. Monday, April 21, 1997.

(Senator Truan in Chair)

#### **SENATE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution were introduced, read first time, and referred to the committees indicated:



**SB 11 by Luna**

Relating to the enforcement of a child support obligation in a suit to terminate the parent-child relationship.

To Committee on Jurisprudence.

**SB 12 by Luna**

Relating to the certification of certain police officers as special officers for mental health assignment.

To Committee on Criminal Justice.

**SB 13 by Galloway**

Relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Chambers County Improvement District No. 2 and the power of certain entities to contract with the district; granting authority to issue bonds.

To Committee on Natural Resources.

**SB 1925 by Ratliff**

Relating to preferential rights to purchase certain surveyed, unsold land in Cass County dedicated to the permanent school fund.

To Committee on Natural Resources.

**SB 1926 by Brown**

Relating to the assessment of damages in a condemnation proceeding.

To Committee on Jurisprudence.

**SB 1927 by Brown**

Relating to dismissal of condemnation proceedings.

To Committee on Jurisprudence.

**SB 1928 by Brown**

Relating to alternative pleading asserting a claim to property or seeking to condemn property.

To Committee on Jurisprudence.

**SB 1930 by Ratliff**

Relating to the creation of the Red River Redevelopment Authority.

To Committee on Intergovernmental Relations.

**SB 1931 by Bivins**

Relating to liability for injury arising out of a motor vehicle accident.

To Committee on Economic Development.

**SB 1932 by Bivins**

Relating to maintenance of information about motor vehicle liability insurance coverage; providing administrative penalties.

To Committee on Economic Development.

**SB 1933 by Bivins**

Relating to motor vehicle insurance coverage and liability for motor vehicle accidents; imposing civil and criminal penalties.

To Committee on Economic Development.

**SCR 71** by Madla

Granting Orian R. Gardner permission to sue the State of Texas and the Texas Department of Transportation.

To Committee on Finance.

#### **HOUSE BILLS AND RESOLUTIONS ON FIRST READING**

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

**HB 120** to Committee on Health and Human Services.  
**HB 195** to Committee on Criminal Justice.  
**HB 381** to Committee on Economic Development.  
**HB 494** to Committee on Jurisprudence.  
**HB 588** to Committee on Education.  
**HB 710** to Committee on Economic Development.  
**HB 858** to Committee on Education.  
**HB 1137** to Committee on State Affairs.  
**HB 1170** to Committee on Economic Development.  
**HB 1298** to Committee on Natural Resources.  
**HB 1305** to Committee on Economic Development.  
**HB 1445** to Committee on State Affairs.  
**HB 1595** to Committee on State Affairs.  
**HB 1724** to Committee on Health and Human Services.  
**HB 1745** to Committee on Jurisprudence.  
**HB 1799** to Committee on Criminal Justice.  
**HB 1826** to Committee on Jurisprudence.  
**HB 1836** to Committee on State Affairs.  
**HB 1917** to Committee on Criminal Justice.  
**HB 1999** to Committee on Natural Resources.  
**HB 2133** to Committee on Economic Development.  
**HB 2201** to Committee on Finance.  
**HB 2699** to Committee on Criminal Justice.  
**HB 2828** to Committee on State Affairs.  
**HB 2918** to Committee on Criminal Justice.  
**HB 3196** to Committee on Economic Development.  
**HB 3490** to Committee on Natural Resources.  
**HJR 55** to Committee on Jurisprudence.  
**HJR 96** to Committee on Intergovernmental Relations.

#### **MEMORIAL RESOLUTION**

**SR 533** - by Wentworth: In memory of John Christian Mayfield, Jr., of Abilene.

#### **CONGRATULATORY RESOLUTION**

**SR 532** - by Wentworth: Congratulating Linda Kay Jamison and Ted Schaefer Harris.

#### **MISCELLANEOUS RESOLUTION**

**HCR 53** - (Nelson): Designating May 23, 1997, Special Olympics Day in Texas.

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**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 12:04 p.m. adjourned until 10:00 a.m. Monday, April 21, 1997.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Senate:

April 18, 1997

INTERGOVERNMENTAL RELATIONS — SB 1635 (Amended), SB 900 (Amended)

NATURAL RESOURCES — SB 1929

CRIMINAL JUSTICE — SB 559, SB 881, SB 1609, SB 1610

ECONOMIC DEVELOPMENT — SB 167, CSSB 1105, CSSB 1111, CSSB 1292

INTERGOVERNMENTAL RELATIONS — CSSB 1017, CSSB 921, CSSB 1277, CSSB 1107, SB 26 (Amended), CSSB 1843, CSSB 1568

STATE AFFAIRS — SB 1715, SB 1636, SB 1598 (Amended), CSSB 577, CSSB 1380, CSSB 1578

HEALTH AND HUMAN SERVICES — SB 1347 (Amended), CSSB 1403, CSSB 1623, SB 1297, SB 1566, SB 1699

STATE AFFAIRS — CSSB 1851, CSSB 1852, CSSB 1613, SB 1688 (Amended), CSSB 1031

NATURAL RESOURCES — CSSB 1585, CSSB 1586, CSSB 1406, CSSB 596, CSSB 1439, CSSB 1791, CSSB 1856, HB 1190 (Amended)

FINANCE — HB 834, SB 1923, SB 1795, SB 1437, SB 1776, SB 1741, SB 1739, SB 1612, SB 1497, SB 1467, SB 1367, SB 1366, SB 1201, SB 961, CSSB 840, SB 20, SCR 47

EDUCATION — CSSB 963

HEALTH AND HUMAN SERVICES — CSSB 975

ECONOMIC DEVELOPMENT — CSSB 1565, SB 1697 (Amended), CSSB 1915

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**SIGNED BY GOVERNOR**April 17, 1997

SB 109, SB 128, SB 209, SB 334, SB 404, SB 435, SB 504, SCR 68

